



## Ontario: Annual Statutes

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1981

# c 59 Fuel Tax Act, 1981

Ontario

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## CHAPTER 59

**An Act to revise the  
Motor Vehicle Fuel Tax Act***Assented to December 11th, 1981*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**Interpre-  
tation

- (a) "bulk plant" means a storage facility that is capable of holding petroleum in storage for subsequent sale or delivery in bulk of such petroleum to wholesalers, retail dealers or purchasers but from which petroleum is not sold or delivered directly into the fuel tank of a motor vehicle;
- (b) "clear fuel" means fuel which contains no dye or less dye than the minimum quantity of dye prescribed;
- (c) "collector" means a person designated in writing by the Minister to colour and distribute coloured fuel and clear fuel and to collect and remit to the Treasurer the tax collectable and payable on sales of clear fuel in accordance with the provisions of this Act and the regulations;
- (d) "coloured fuel" means fuel which contains dye in an amount equal to or in excess of the amount prescribed for the purpose of this clause;
- (e) "colouring" and "colour" in respect of fuel mean the addition to fuel of dye in the proportion prescribed by a person so authorized by the Minister;
- (f) "dye" means chemical substances prescribed for the purpose of blending with fuel to make coloured fuel;
- (g) "dye-point" means a terminal designated by the Minister for the purpose of colouring fuel;

- (h) "fuel" means any gas or liquid that may be used for the purpose of generating power by internal combustion, and includes any substance added thereto, but does not include,
- (i) any product that is excluded from this Act by the regulations and to which subsection 4 (5) does not apply,
  - (ii) gasoline on which the tax imposed by the *Gasoline Tax Act* has been paid, or
  - (iii) aviation fuel on which the tax imposed by the *Gasoline Tax Act* has been paid and that is used to create power to propel an aircraft;
- (i) "fuel tank" means that part of a motor vehicle in which fuel for generating power in the motor vehicle is kept;
- (j) "importer" means any person, other than a collector, who receives in Ontario fuel from a person outside Ontario, or who brings into Ontario fuel for the purpose of resale in Ontario or for his own use or the use of others at his expense in Ontario;
- (k) "interjurisdictional carrier" means a person who engages in the commercial transportation of goods or passengers and who operates for such purpose,
- (i) one or more motor vehicles licensed or required to be licensed under the *Highway Traffic Act* and operating inside and outside Ontario,
  - (ii) one or more motor vessels operating under the *Canada Shipping Act*, or
  - (iii) railway equipment operated on rails in connection with and as part of a public transportation system;
- (l) "Minister" means the Minister of Revenue;
- (m) "motor vehicle" means a machine operated, propelled or driven otherwise than by muscular power;
- (n) "prescribed" means prescribed by the regulations;
- (o) "purchaser" means a person who acquires or receives fuel for his own use or consumption or for the use or consumption by others at his expense, or on behalf of,

R.S.O. 1980,  
c. 186

R.S.O. 1980,  
c. 198

R.S.C. 1970,  
c. S-9

or as agent for, a principal who desires to acquire the fuel for use or consumption by him or other persons at his expense;

- (p) "registered consumer" means the holder of a valid fuel acquisition permit under this Act;
- (q) "regulations" means the regulations made under this Act;
- (r) "retail dealer" means a person who sells fuel to a purchaser;
- (s) "tax" includes all penalties and interest and includes dye costs assessed under section 13 that are or may be added to a tax under this Act;
- (t) "taxable price per litre" of fuel means the price per litre from time to time prescribed by the Minister as the taxable price per litre of fuel for such period of time as the Minister may prescribe, and in determining the taxable price per litre of fuel, the Minister shall use the median price obtained by him from such periodic sampling as he considers appropriate of the retail prices (excluding the tax imposed by this Act) of fuel in such part or parts of Ontario as he shall direct a sample to be taken, provided that no change in the taxable price per litre of fuel from time to time in effect shall come into force until at least two days after the filing of a regulation prescribing a different taxable price per litre of fuel;
- (u) "terminal" means a storage facility to which petroleum is conveyed from a refinery and which is capable of holding petroleum in storage for resale and receiving petroleum by pipeline or water craft;
- (v) "Treasurer" means the Treasurer of Ontario and Minister of Economics.

**2.—(1)** Every person desiring to be a registered consumer shall, by such form and in such manner as the Minister requires, apply for a fuel acquisition permit. Registered consumer

**(2)** Where the Minister is satisfied that the applicant for a fuel acquisition permit will be acquiring fuel principally to be consumed by the applicant in a manner prescribed for the purpose of this subsection, the Minister may issue a fuel acquisition permit to such applicant and the fuel acquisition permit may be made subject to such conditions and restrictions as the Minister consid- Issue of fuel acquisition permit by Minister

ers necessary to ensure that fuel received by the applicant through his use of the fuel acquisition permit will be dealt with by the applicant in accordance with this Act and the regulations.

Refusal to  
issue,  
suspension or  
cancellation

(3) The Minister may refuse to issue a fuel acquisition permit to any applicant or may suspend or cancel any fuel acquisition permit if the applicant for the fuel acquisition permit or a registered consumer contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon which his certificate was issued or, in the case of an applicant for a fuel acquisition permit, fails to satisfy the Minister of the applicant's ability to perform the conditions proposed by the Minister to be attached to the issue of the fuel acquisition permit.

Hearing

(4) Where the Minister intends to refuse to issue a fuel acquisition permit or intends to suspend or cancel any fuel acquisition permit, the applicant or registered consumer, as the case may be, shall, subject to subsection (5) and before the refusal, cancellation or suspension, be afforded an opportunity, at a hearing before the Minister or some other person authorized by the Minister to hold the hearing, to show cause why the issue of a fuel acquisition permit should not be refused or why the fuel acquisition permit should not be suspended or cancelled, whichever is the case.

Suspension  
forthwith

(5) Where a registered consumer fails to remit the tax that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the registered consumer and without a hearing, suspend forthwith the registered consumer's fuel acquisition permit, and the notice shall state the failure of the registered consumer for which his permit is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the registered consumer's suspension should be rescinded or continued and upon what conditions the suspension may be rescinded or continued.

Service  
of notice

(6) A notice of hearing under subsection (4) or (5) is properly served either by personal service or by registered mail sent to the last known address of the registered consumer or applicant, as the case may be.

Offence

(7) Every person who, being a registered consumer, contravenes this Act or the regulations or any condition or restriction contained in his fuel acquisition permit issued under this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with

this Act or the regulations, plus an additional amount of not less than \$500 and not more than \$5,000.

**3.—(1)** Every interjurisdictional carrier required to hold a registration certificate under this section shall, by such form and in such manner as the Minister requires, apply for a registration certificate and the Minister may issue a registration certificate to the applicant subject to such conditions and restrictions as the Minister considers necessary to ensure compliance with this Act and the regulations.

Interjurisdictional carriers must register

**(2)** The Minister may refuse to issue a registration certificate to any applicant or may suspend or cancel any registration certificate if the applicant or the holder of a registration certificate contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon his registration certificate or, in the case of an applicant for a registration certificate, fails to satisfy the Minister of the applicant's ability to perform the conditions proposed by the Minister to be attached to the issue of the registration certificate.

Refusal to issue, suspension or cancellation

**(3)** Where the Minister intends to refuse to issue a registration certificate or intends to suspend or cancel a registration certificate, the applicant or holder of a registration certificate, as the case may be, shall, subject to subsection (4) and before the refusal, cancellation or suspension, be afforded an opportunity, at a hearing before the Minister or some person authorized by the Minister to hold the hearing, to show cause why the issue of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, whichever is the case.

Hearing

**(4)** Where the holder of a registration certificate fails to remit the tax that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the holder of the registration certificate and without a hearing, suspend forthwith the registration certificate, and the notice shall state the failure of the holder of the registration certificate for which his certificate is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the suspension of the registration certificate should be rescinded or continued and upon what conditions the suspension may be rescinded or continued.

Suspension forthwith

**(5)** A notice of hearing under subsection (3) or (4) is properly served either by personal service or by registered mail sent to the last known address of the holder of the registration certificate or applicant, as the case may be.

Service of notice

Offence

(6) Every person who,

- (a) operates as an interjurisdictional carrier in Ontario without holding a registration certificate required under this Act; or
- (b) being the holder of a registration certificate, contravenes this Act or the regulations or any condition or restriction contained in his registration certificate issued under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with this Act or the regulations, plus an additional amount of not less than \$200 and not more than \$2,000.

Tax

4.—(1) Every collector, importer, registered consumer and purchaser shall pay to the Treasurer a tax at the rate of 27 per cent of the taxable price per litre on each litre of clear fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment, and shall, on each litre of clear fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as a part of a public transportation system, pay to the Treasurer a tax at the rate of 8.37 per cent of the taxable price per litre of such fuel.

Idem

(2) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price or consideration paid or given by a collector, importer, registered consumer or purchaser for clear fuel is different from the taxable price per litre of that fuel.

Payment  
of tax

(3) Subject to subsection (5), the tax imposed by subsection (1) shall be paid at the time the clear fuel is supplied to the purchaser, or where the clear fuel is acquired by the purchaser outside Ontario, and imported into Ontario in the fuel tank of a motor vehicle at the time such fuel is used in Ontario, and the tax imposed by subsection (1) shall be paid to the Treasurer in accordance with section 11.

Security  
for tax

(4) Where a purchaser uses in Ontario clear fuel that was acquired outside Ontario, such purchaser shall, upon the demand of the Minister or of someone authorized by the Minister to make such a demand, furnish to the Minister security in cash or in such other form as is satisfactory to the Minister that is sufficient for the payment of all tax imposed by this Act on the use by such purchaser in Ontario of clear fuel on which the tax imposed by this Act has not been paid, and in the event that the

tax for which the security is given is not paid, the Minister may realize upon the security to the extent necessary to pay such tax.

(5) Where any person places any product that is excluded from this Act by the regulations in a fuel tank of a motor vehicle that is licensed or required to be licensed under the *Highway Traffic Act*, the product thereupon becomes taxable as clear fuel under this Act and is no longer excluded from this Act, and the person so doing shall forthwith pay the tax imposed by this Act on such fuel to the Treasurer.

Payment  
of tax

R.S.O. 1980,  
c. 198

(6) No collector or retail dealer shall place any coloured fuel in the fuel tank of a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

Prohibited  
use of  
coloured  
fuel

(7) No person who is the operator or who is in charge of a motor vehicle licensed or required to be licensed under the *Highway Traffic Act* shall place or cause to be placed in the fuel tank of the motor vehicle any coloured fuel.

Idem

(8) Every person who knowingly fails to pay the tax imposed by subsection (1), (2) or (5) when required by this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of the tax that he failed to pay and of an additional amount that is not less than \$100 and not more than \$5,000.

Offence

(9) Every person who fails to comply with subsection (3) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Idem

(10) Where any person selling fuel receives any payment made as or in lieu of tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act and the regulations for the collection and enforcement of the tax payable under this Act and, for the purposes of the assessment and collection of such payment, the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a collector.

Amounts in  
lieu of tax

(11) Coloured fuel may be used for any purpose prescribed by the Minister for the use of coloured fuel and for all purposes other than the generating of power in a motor vehicle or the propulsion of railway equipment operated on rails in connection with, and as a part of, a public transportation system.

Use of  
coloured  
fuel



Detention  
and  
examination  
of motor  
vehicle

5.—(1) For the purpose of ascertaining,

- (a) whether tax imposed by this Act has been paid on clear fuel contained in the fuel tank of a motor vehicle or whether the fuel tank contains clear or coloured fuel;
- (b) whether any tax imposed by this Act is payable on such fuel; or
- (c) whether the operator of a motor vehicle is an interjurisdictional carrier holding a valid registration certificate or is required to hold such a certificate,

any person thereunto authorized by the Minister may stop and detain any motor vehicle in Ontario and may examine such motor vehicle, fuel in any fuel tank thereof and take samples of such fuel, and may demand the production forthwith of any valid registration certificate issued under this Act to the operator.

Offence

(2) Every operator of a motor vehicle that may be stopped and detained under subsection (1) who refuses to permit the detention and examination of such motor vehicle that is under his control, or who refuses to allow samples of fuel to be taken, or fails to produce forthwith a valid registration certificate issued to him under this Act, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500 for each offence.

Idem

(3) Every operator of a motor vehicle that is found to contain coloured fuel in any fuel tank thereof, contrary to the provisions of this Act and the regulations, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500 for each offence.

Burden  
of proof

(4) In any proceeding under subsection (3) it is not necessary to prove that coloured fuel was acquired and used in contravention of this Act, but only to prove that the fuel tank of a motor vehicle contained coloured fuel on the day of the examination under this section.

Subsequent  
offence

(5) The fact that the coloured fuel that was found in a fuel tank of a motor vehicle is the same coloured fuel that was found therein on another occasion that constituted an offence under subsection (3) is not a defence in a prosecution for a subsequent offence under that subsection if a period of more than twenty-four hours has elapsed since taking a sample of fuel from that motor vehicle.

Invoice

6.—(1) Every vendor shall inform every person to whom he sells fuel of the price of the fuel and shall deliver to him an invoice showing,

- (a) the name of the vendor and of the purchaser;
- (b) the selling price of the fuel;
- (c) the amount of tax charged;
- (d) the quantity of clear fuel sold;
- (e) the quantity of coloured fuel sold; and
- (f) the date of sale.

(2) Upon the request of the Minister, every purchaser of fuel and every person in control of a motor vehicle that contains fuel shall furnish to the Minister proof that tax has been paid on such fuel or that no tax was payable under this Act on such fuel.

Responsi-  
bility of  
purchaser,  
etc.

7. The Minister may require any collector or registered consumer or importer to furnish security on such terms and conditions and in such amount as the Minister considers appropriate.

Security

8.—(1) The Minister may designate any person who is an operator or owner of a terminal to be a collector under this Act and in the case of each collector so designated, may specify the number and location of dye-points the collector may establish and operate.

Designation  
of  
collector

(2) Subject to subsections (3) and (4), every collector shall, at the times and in the manner prescribed, collect from any wholesaler, retail dealer or purchaser to whom the collector sells clear fuel, the tax collectable and payable under this Act, and for that purpose every collector is an agent of the Minister for the collection of the tax imposed by this Act and for the remittance thereof to the Treasurer.

Collector  
to collect  
tax

(3) Unless the tax is collected at the time of sale, no collector shall sell clear fuel to any person who is not a registered consumer holding a fuel acquisition permit that allows him to purchase fuel without paying tax to a collector.

Tax on  
clear fuel

(4) Notwithstanding subsection (2) no collector shall collect the tax imposed by this Act on the sale by him of clear fuel to a collector who is not a purchaser in respect of such clear fuel.

Sales to  
collectors

(5) No individual designated a collector under subsection (1) shall by reason of such designation be made ineligible as a member of the Assembly.

Members of  
Assembly

(6) Every person who collects any tax under this Act and every person who, being a collector or importer, is liable for tax

Tax moneys  
are trust  
moneys

as a purchaser of clear fuel is deemed to hold such tax in trust for Her Majesty the Queen in right of Ontario and shall remit to the Treasurer all such tax at such time and in such manner as is required by this Act and the regulations.

Dye held  
in trust

(7) Every collector who possesses dye in accordance with the requirements of this Act and the regulations is deemed to hold the dye in trust for Her Majesty the Queen in right of Ontario for the purpose of using the dye in accordance with this Act and the regulations and is accountable for all such dye at the time and in the manner provided by the Act and the regulations.

Use of dye

(8) Every collector shall, when colouring fuel, use as a dye only such dye as shall be provided from time to time by the Minister and shall use only the quantity of dye that is required to colour fuel as prescribed.

Arrangements  
for  
collection

(9) For the purpose of ensuring and facilitating the collection of the tax under this Act, the Minister may enter into such arrangements or agreements with a collector as the Minister considers appropriate.

Offence

(10) Every collector who refuses or neglects to collect the tax in accordance with this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of the tax that he refused or neglected to collect and \$500, and not more than the amount of the tax that he refused or neglected to collect and \$10,000.

Collector  
to colour  
fuel

(11) Every collector shall colour fuel that is required to be coloured in strict accordance with such requirements as are prescribed by the Minister for the colouring of fuel, the equipment to be used therefor, and the methods and procedures to be followed and observed in the colouring of fuel and every collector who refuses or neglects to dye fuel in accordance with the requirements prescribed is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000.

Offence

(12) Every collector who sells as coloured fuel, fuel to which dye has not been added in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem

(13) Every employee or agent of a collector who permits or authorizes or is a party to or acquiesces in supplying clear fuel to a purchaser without collecting the tax imposed by this Act is guilty of an offence and on conviction is liable to a fine equal to the amount of tax that should have been collected and \$50.

(14) No retail dealer in Ontario shall sell or deliver to a purchaser any clear fuel without collecting from the purchaser the tax imposed by this Act, and for the purpose of collecting such tax, every retail dealer is an agent of the Minister.

Retail dealers to collect tax from purchasers

(15) Every retail dealer who is not also a collector shall pay over the tax collected by him to a collector at the time and in the manner required by this Act and the regulations.

Retail dealers to pay tax to collectors

**9.**—(1) The Minister may suspend or cancel the designation of any collector where the collector contravenes any of the provisions of this Act or the regulations.

Designation suspended or cancelled

(2) Subject to subsection (3) and before the cancellation or suspension of the designation, the collector shall be afforded an opportunity at a hearing before the Minister or some person authorized by the Minister to hold the hearing within ten days of the notice of suspension or cancellation to show cause why his designation as a collector should not be suspended or cancelled, as the case may be.

Hearing

(3) Notwithstanding subsection (2), the Minister may suspend or cancel forthwith and without hearing, the authority granted to a collector for the operation of a dye-point where the collector contravenes any of the provisions of this Act and the regulations which apply to the operation of such dye-point and shall confirm in writing the suspension or cancellation of the authority as imposed and the collector shall be given an opportunity to appear before the Minister or some person authorized by the Minister to hold a hearing within ten days of the date of suspension or cancellation to show cause why the authority to operate the dye-point should be reinstated.

Suspension forthwith

(4) Notice of a hearing to be held under subsection (2) is properly served if served either personally or by registered mail sent to the last known address in Ontario of the collector.

Service of notice

(5) Notice of a suspension or cancellation under subsection (3) is properly served if served either personally or by registered mail sent to the address of the dye-point the operation of which is suspended or cancelled.

Idem

**10.**—(1) Every collector, importer, interjurisdictional carrier and registered consumer shall,

Returns

(a) without notice or demand and at the time and in the manner prescribed in the regulations; or

(b) on or before the day designated in the demand of the Minister served on the collector, importer, interjuris-

dictional carrier or registered consumer by hand or by registered letter,

deliver to the Minister such return as he requires for the purpose of carrying out this Act.

Verification  
of returns

(2) Every return shall be verified by the certificate of the collector, importer, interjurisdictional carrier or registered consumer and if the collector, importer, interjurisdictional carrier or registered consumer is not an individual, of its president or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of the collector, importer, interjurisdictional carrier or registered consumer and exhibit truly, correctly and completely all information for the period covered by the return.

Penalty for  
failure to  
deliver  
return

(3) Every person who fails to make a return as required by subsection (1) shall pay a penalty of not less than \$10 and not more than 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him.

Offence

(4) Every person who fails to complete the information required in the return to be delivered to the Minister under subsection (1) is guilty of an offence and on conviction is liable to a fine of \$50.

Time for  
making  
returns

(5) The Minister may enlarge the time for making any return before or after the time for making it.

Declarations  
and  
affidavits

(6) Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor.

Transmission  
of tax

**11.**—(1) Every collector, registered consumer or interjurisdictional carrier shall transmit with the return required by section 10 the amount of the tax payable by him or payable and collectable by him, as the case may be.

Deficiency

(2) Subject to subsection (3), where a collector, importer, registered consumer or interjurisdictional carrier transmits less than the amount of the tax payable by him or payable and collectable by him, as the case may be, he shall pay to the Treasurer interest at such rate as is prescribed upon the deficiency calculated from the date of default until the date of transmission to the Treasurer.

Where refund  
of tax  
claimed

(3) Where, in a return delivered by a collector, registered consumer or interjurisdictional carrier in accordance with this Act

and the regulations, it is shown that tax under this Act is payable by the collector, registered consumer or interjurisdictional carrier with respect to his use of fuel, and, where, at the time such return is delivered to the Minister, the collector, registered consumer or interjurisdictional carrier also applies for a refund under section 21 of some or all of such tax on fuel so used by him, he may, notwithstanding subsection (1), retain the amount a refund of which he claims until the refund for which he has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to him, and upon receiving a statement of disallowance for all or part of the refund claimed, the collector, registered consumer or interjurisdictional carrier shall, with his next return or at such earlier time as is specified in the statement of disallowance, whether or not an objection or appeal from the statement of disallowance is made or taken, transmit to the Treasurer any amount a refund of which has been refused together with interest thereon at the rate prescribed for the period during which such amount has been retained by the collector, registered consumer or interjurisdictional carrier, and upon his being notified of the approval of the refund of any amount a refund of which has been claimed, the collector, registered consumer or interjurisdictional carrier may, subject to subsection (4), retain for his own use such amounts so approved.

(4) Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax under this Act owing to the Crown, and the provisions of this Act relating to collection of tax apply with necessary modifications to the said amount. Recovery of excess refunds

(5) Every importer who sells clear fuel in Ontario shall collect and remit to the Treasurer, at the time and in the manner prescribed, the tax imposed by the Act in respect of such clear fuel, and for the purpose of collecting such tax, every importer is an agent of the Minister. Importers to collect and remit tax

(6) Every importer shall remit to the Treasurer, at the time and in the manner prescribed, the tax payable by him in respect of all clear fuel imported by him into Ontario for his own use or the use of others at his expense. Idem

**12.**—(1) If the Minister, in order for him to assess the tax collectable or payable by any person under this Act or for any other purpose, desires any information or additional information, or a return from any person who has not made a return or a complete or sufficient return, he may, by registered letter, demand from such person or from the president, manager, secretary, or any director, agent or representative of any person, such information, additional information or return, and the per- Minister may demand information

son upon whom the demand is made shall deliver to the Minister the information, additional information or return within the time specified in the registered letter.

Production  
of letters,  
accounts,  
etc.

(2) The Minister may, by registered letter, require the production under oath or otherwise by any collector, importer, registered consumer, interjurisdictional carrier or purchaser, or by the president, manager, secretary, or any director, agent or representative of any of them, or by any person, partnership or trust who has been, is or may become indebted to such collector, importer, registered consumer, interjurisdictional carrier or purchaser, or by any partner, agent or official of any such person, partnership or trust, of any letters, accounts, invoices, statements or other documents.

Records to  
be kept

(3) If a person fails or refuses to keep adequate books of account for the purpose of ascertaining the amount of tax payable by him or payable and collectable by him, as the case may be, the Minister may require such person to keep such records and accounts as the Minister specifies for such length of time as the Minister requires.

Penalty

(4) For every default in complying with subsection (1), (2) or (3), the person in default is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default continues.

Notice of  
assessment

**13.—**(1) After examination of the return of a person from whom a return was demanded, the Minister may send a notice of assessment to such person altering the amount of tax shown to be collectable by the person or to be payable by the person in his return, and any additional tax found to be collectable or payable, as the case may be, over the amount shown in the return shall be assessed.

Idem

(2) The Minister may at any time he considers reasonable assess any tax collectable or payable by any person under this Act and shall send a notice of assessment requiring the person to transmit the tax assessed forthwith to the Treasurer.

Assessment  
on  
inspection

(3) Where it appears from an inspection, audit or examination of the books of account, records or documents of any collector, importer, registered consumer, interjurisdictional carrier or purchaser that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collected or payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of tax collected or payable.

(4) The Minister may at any time he considers reasonable assess against a collector the costs of any dye provided in accordance with this Act or the regulations for which the collector cannot account when required to do so and for any dye which is misused by reason of its mixture with fuel in quantities other than the quantities prescribed.

Assessment  
for dye  
costs

(5) Every person who fails to collect tax that he is responsible to collect under this Act or the regulations shall, when assessed therefor, pay a penalty equal to the amount of tax that he failed to collect.

Penalty for  
non-collection  
of tax

(6) The Minister may assess under this section any person who has received a refund under this Act or the regulations and who is not entitled to such refund, and such assessment shall be for the amount of the refund to which the person is not entitled and shall be accompanied by a brief statement in writing of the grounds upon which the person assessed is claimed not to be entitled to the amount claimed in the assessment.

Erroneous  
refunds

(7) Where a person has, in accordance with this Act and the regulations, applied for or taken a refund under this Act or the regulations, and his claim is in whole or in part refused, the Minister shall cause to be served on such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

Disallowance  
of refund

(8) A statement under subsection (7) or a notice of assessment made under this section may be served by sending such statement or notice by prepaid mail to the person whose claim is refused or against whom an assessment is made under this section, as the case may be, at his last known address, or by serving such notice on him personally.

Notice of  
assessment

(9) Any person assessed shall, within one month of the date of service of an assessment made against him, transmit the tax claimed in the assessment whether or not an objection or appeal from the assessment is outstanding, and if such person fails to transmit the tax at the time required, he shall pay to the Treasurer interest at the rate prescribed upon the tax from the due date to the date of transmission to the Treasurer.

Payment  
of tax  
assessed

(10) No assessment of tax or penalty provided for in this section shall be made with respect to tax that should have been collected more than three years immediately preceding the day of the assessment, except that, where the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under

Limitation  
on  
assessment



this Act or the regulations or in omitting to disclose any information, then the Minister may, where he considers it expedient, impose the penalty or assess for tax in respect of tax that should have been paid or collected more than three years prior to the date of assessment.

Assessment  
conclusive

(11) Subject to being vacated or varied on a objection or appeal, a statement or assessment under this section shall be deemed to be valid and binding and the amount assessed in any such assessment shall, for the purposes of the collection or recovery thereof, be deemed to be tax owing under this Act and be conclusively established as a debt owing to Her Majesty the Queen in right of Ontario.

Notice of  
objection

**14.—**(1) Where a person objects to an assessment or statement or disallowance under section 13, he may, within ninety days from the service of the assessment or statement of disallowance serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Service of  
notice

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.

Exception

(3) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection (2).

Reconsidera-  
tion

(4) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the assessment or statement of disallowance objected to and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and he shall thereupon notify the person making the objection of his action by letter, either sent by registered mail to, or personally served on, the person.

Appeal

(5) When the Minister has given the notification required by subsection (4), the person who has served a notice of objection under this section may appeal to the Supreme Court to have the assessment or statement of disallowance so objected to vacated or varied, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to or served on such person under subsection (4).

Appeal  
how  
instituted

(6) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the appellant resides or has his place of business.

(7) A notice of appeal shall be served on the Minister by being <sup>Service</sup> sent by registered mail addressed to the Minister or by personal service.

(8) The appellant shall set out in the notice of appeal a state- <sup>Statement of</sup> ment of the allegations of fact and the statutory provisions and <sup>allegations</sup> reasons that he intends to submit in support of his appeal, and an address in Ontario where the appellant may be served.

(9) The Minister shall with all due dispatch serve on the <sup>Reply to</sup> appellant and file in the Supreme Court a reply to the notice of <sup>notice of</sup> appeal admitting or denying the facts alleged and containing a <sup>appeal</sup> statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on, and where the Minister fails to serve the reply within 180 days from the date of service upon him of the notice under subsection (6), the appellant may, upon twenty-one days' notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure of the Minister to serve the reply in the time specified in the order, the assessment or notice of disallowance with respect to which the appeal is made shall be vacated and any tax pursuant to such assessment shall be repaid to the appellant or the refund disallowed be paid to the appellant, but nothing in this section revives an appeal that is void or affects a statement of disallowance or assessment that has become valid and binding.

(10) Upon the filing of the material referred to in subsections <sup>Matter</sup> (5) and (9), with the Registrar of the Supreme Court or the local <sup>deemed</sup> registrar of the Supreme Court, the matter shall be deemed to be <sup>action</sup> an action in the court and the practice and the procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(11) Proceedings under subsections (5), (9), (10), (12) and (13) <sup>Proceedings</sup> may be held *in camera* on request made to the court by the <sup>in camera</sup> appellant or by the Minister.

(12) The Court may dispose of the appeal by such order as it <sup>Disposal</sup> considers just and the Minister shall, subject to the final decision <sup>of appeal</sup> of any court to which the order is appealed, vacate or vary, where necessary, the assessment or statement of disallowance so as to carry out the final order of the court.

Court may  
order refund

(13) The court may, in delivering judgment disposing of an appeal, order payment of a refund of tax by the appellant or the Treasurer, as the case may be, and may make such order as to costs as it considers proper.

Irregularities

(14) An assessment shall not be vacated or varied on adjudication by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

Extension

(15) The time within which a notice of objection under subsection (1) or a notice of appeal under subsection (5) is to be served may be extended by the Minister if application for extension is made prior to the expiration of the time of service of that notice of objection or notice of appeal.

Certificate  
to prove  
unpaid tax

**15.—**(1) The Minister or Deputy Minister of Revenue shall determine the amount of tax referred to in subsection 2 (7) or in subsection 3 (6) or in subsection 4 (8) or (10) or in subsection 8 (10) or (13) or in section 27 from such information as is available to him and shall issue a certificate as to the amount, and such certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax that should have been collected or paid is *prima facie* evidence of the amount of tax that should have been collected or paid and of the authority of the person giving or making the certificate without any proof of appointment or signature.

Compliance  
of Minister,  
etc., to be  
proved by  
affidavit

(2) For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Minister, as well as the failure of any person to comply with the requirements of this Act, are sufficiently proved in any court by affidavit of the Minister or any officer of the Ministry of Revenue.

Analysis  
of fuel

(3) The Minister may authorize any person he designates to analyze fuel under this Act and the Minister may prescribe the form of the certificate of analysis to be issued by that person.

Idem

(4) In any proceeding instituted under this Act, the certificate of analysis of fuel made under subsection (3) and signed by a person authorized by subsection (3) to make the analysis is *prima facie* evidence of the facts stated therein and of the authority of the person signing the certificate to make the analysis, without other proof of his appointment or signature.

When  
information  
to be laid

(5) Any information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose.

(6) Neither the application of any provision of this section or the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act. Remedies to be independent

**16.**—(1) Every person who makes a false statement in any return or in any information made or furnished to the Minister under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. False statements

(2) Any person who, being an officer, director or agent of a corporation, directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act and for which the corporation would be liable for prosecution, is guilty of an offence, and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., of corporations

**17.**—(1) Upon default of transmission to the Treasurer by any person of any tax that is collected and any tax or penalty that is payable by such person under this Act, Recovery of tax

(a) the Minister may bring an action for recovery thereof in any court of competent jurisdiction and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury; or

(b) the Minister may issue a warrant and direct it to the sheriff of any county or district in which any property of the person is located or situate for the amount of the tax, interest and penalty or any of them owing by the person together with interest thereon from the date of issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(2) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act. Garnishment

(3) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. Idem

Liability  
of debtor

(4) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of  
garnishee

(5) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act, carries on business under a name and style other than his own name, the registered or other letter under subsection (2) may be addressed to the name and style under which he carries on business and in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(6) Where persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act, carry on business in partnership, the registered or other letter under subsection (2) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

Garnishment  
of wages  
R.S.O. 1980,  
c. 526

(7) Subject to the *Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Failure  
to remit

(8) Where any person without reasonable excuse fails to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

Investi-  
gations

**18.—(1)** Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter and examine any motor vehicle powered by fuel or enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any

books or records are or should be kept under this Act or the regulations, and may,

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate either to the information that is or should be in the books or records or to the amount of tax that is or should be collected, payable or remitted under this Act or the regulations;
- (b) examine any fuel or motor vehicle or the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act or that should be remitted or collected under this Act or the regulations;
- (c) require a purchaser, retailer, wholesaler, importer, collector, registered consumer or interjurisdictional carrier or an operator of a motor vehicle liable to collect or pay or considered possibly liable to collect or pay tax under this Act or if such person is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such person or in the motor vehicle of such operator to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him;
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings;
- (e) take samples of any fuel to ascertain whether any fuel tank or storage tank contains coloured fuel or clear fuel for the purpose of determining the amount of any tax payable under this Act or, in the case of a storage tank purported by the custodian of the fuel to contain coloured fuel, to ascertain if the fuel contains dye in the proportion prescribed for colouring fuel; and

- (f) detain any motor vehicle suspected, after an examination of the fuel in the fuel tank of the motor vehicle, of containing fuel other than clear fuel contrary to the provisions of this Act and the regulations and to question the person in charge of the motor vehicle and examine invoices and any other documents in his possession.

Idem

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer, collector, registered consumer or interjurisdictional carrier or from the owner or operator of a motor vehicle, or if any of them is a partnership or a corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information or a return as required under this Act or the regulations; or
- (b) production or production on oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may for any purpose related to the administration or enforcement of this Act or the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other police officers as he calls upon to assist him and such other persons as are named therein to enter and search, if necessary by force, any building, receptacle or place, or any motor vehicle powered by fuel, for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Production  
of evidence  
to prove tax  
payable by  
another  
person

(4) The Minister may, by registered letter or by a demand that is served personally, require the production, under oath or otherwise, by any person, partnership or trust, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, syndicate or trust, or of his or its agent or officer for the purpose of determining what tax, if any, is collectable, payable or collected under this Act by any

person and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(5) Where a book, record or other document has been seized, <sup>Copies</sup> examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(6) No person shall hinder or interfere with any person doing <sup>Interference</sup> anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing.

(7) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything that he is required by this section to do. <sup>Compliance</sup>

(8) Every person who contravenes this section or who fails to provide any information or make any return requested under this section is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the offence continues. <sup>Offence</sup>

(9) The Crown or any servant thereof or any person acting in the administration or enforcement of this Act is not liable for any damage to a screen, filter or other device installed in, on or about the intake of a fuel tank or a storage tank and which impedes access to the tank by equipment required by and used by a person authorized by the Minister under this Act and the regulations to take samples of fuel where such screen, filter or other device is not removed or not removable by the person in charge of the tank or motor vehicle at the time a sample of fuel is to be taken or for any compensation to any person for any fuel taken as a sample for the purpose of this Act or the regulations. <sup>Liability for damage to screens and filters</sup>

19.—(1) Every person carrying fuel in a motor vehicle in a tank other than the fuel tank of the motor vehicle, and the operator of every such motor vehicle, shall, when requested by the Minister or any person authorized by the Minister, provide any or all of the following information, <sup>Information on bulk shipments of fuel</sup>

- (a) the name and address of any person from whom the fuel being carried was obtained, and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;



- (b) the quantity of fuel delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle,

and where no written evidence substantiating such information is available at the time that the request is made, the person to whom the request is made shall orally supply the information and may be required to certify in writing any of such oral statements.

Detention  
of motor  
vehicle

(2) Where the information required to be furnished by subsection (1) is not given, or where the information that is furnished is false, the motor vehicle may be detained by the Minister until the information is provided or until the true information is provided, and during any such detention, the Crown shall not be liable for any damages to the motor vehicle, its contents, cargo or freight, or to its owner or operator or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending the furnishing of the information required by subsection (1) or the furnishing of accurate information as required by subsection (1).

Idem

(3) Any person authorized by the Minister may,

- (a) stop and detain any motor vehicle capable of transporting fuel and any container capable of holding fuel as cargo;
- (b) examine and take samples of the fuel being transported by any motor vehicle or in the fuel tank of the motor vehicle;
- (c) examine documents in the custody of the person in charge of the motor vehicle related to liability for tax on the purchase of fuel, the ownership of the motor vehicle and the identity of the person in charge of the motor vehicle;
- (d) prohibit the sale or delivery as coloured fuel of any fuel carried, if the fuel contains less dye in proportion to fuel than is prescribed for colouring fuel.

Offence

(4) Every person who,

- (a) neglects or omits to comply with stop signs set up by a person authorized to examine any motor vehicle or to obey the signals or orders of such person;

- (b) refuses to permit the examination of any motor vehicle;  
or
- (c) refuses or wilfully neglects to answer any question put to him by a person authorized to examine any motor vehicle,

is guilty of an offence and upon conviction is liable to a fine of not less than \$200 and not more than \$1,000.

**20.** Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable under this Act be paid, the Minister may exempt a person from payment of the whole or any part of the interest. Relief from interest

**21.—(1)** The Minister may refund the full tax imposed by this Act where clear fuel on which the tax was paid, or, coloured fuel on which the tax was paid in error, was, in the opinion of the Minister, used exclusively, Refund

- (a) in the business of farming or commercial fishing; or
- (b) in any business, industry or institution for any business, industrial or institutional purpose that is not prescribed by the Minister to be excluded from the application of this section,

but no refund of tax may be made with respect to fuel used to operate a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, or used in any motor vehicle operated or intended to be operated principally for the pleasure or recreation of its owner or operator. R.S.O. 1980,  
c. 198

(2) A refund under this Act shall not be made unless an application therefor, accompanied by properly receipted invoices, is received by the Minister within, Application for refund

- (a) two years of the date when the tax a refund of which is sought was paid if that tax was paid prior to the 1st day of September, 1980;
- (b) three years of the date when the tax a refund of which is sought was paid if that tax was paid on or after the 1st day of September, 1980,

and there shall be furnished to the Minister such evidence as he requires to satisfy him of the entitlement of the applicant to the refund claimed.

Over-  
payments

(3) Where a person has transmitted to the Treasurer an amount in excess of the tax collectable by him under this Act and of the taxes, interest and penalties payable by him under this Act, such excess amount shall be refunded to him upon his application therefor made within,

- (a) two years of the date of his payment of such excess amount if that payment was made prior to the 1st day of September, 1980; or
- (b) three years of the date of his payment of such excess amount if that payment was made on or after the 1st day of September, 1980,

and where any overpayment of tax by a person is the result of an assessment or reassessment or notice of disallowance under this Act or of the final decision of a court in proceedings commenced under section 14, such overpayment shall, notwithstanding subsection (2), be refunded without an application therefor.

Communica-  
tion of  
information

**22.**—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purpose of this Act; or
- (b) knowingly allow any person to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Officials not  
compellable  
as witnesses

(2) Notwithstanding any other Act, but subject to subsection (3), no person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Exceptions  
for legal  
proceedings

(3) Subsections (1) and (2) do not apply in respect of,

- (a) criminal proceedings under any Act of the Parliament of Canada; or
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act.

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act,

Exceptions  
for internal  
adminis-  
tration

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow any official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(5) Notwithstanding anything in this Act, the Minister may permit a copy of any record or thing obtained by him or on his behalf for the purposes of this Act to be given to,

Exception  
for objection  
or appeal

- (a) the person from whom the record or thing was obtained; or
- (b) any person,
  - (i) for the purpose of any objection or appeal that has been or may be taken by that person under this Act arising out of an assessment of tax under this Act in connection with which the record or thing was obtained, or
  - (ii) by whom any amount payable under this Act is payable or has been paid; or
- (c) the legal representative of any person mentioned in clause (a) or (b) or the agent of any such person authorized in writing in that behalf.

(6) Notwithstanding anything in this Act, the Minister may permit information or a copy of any record or thing obtained by him or on his behalf for the purposes of this Act to be given to,

Exception  
for tax  
enforcement  
in other  
jurisdic-  
tions

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purpose of administering or

enforcing an Act of the Parliament of Canada imposing any tax or duties; or

- (b) a minister of the government of any province or territory of Canada or officer or employee employed under that minister, for the purpose of administering or enforcing an Act or ordinance of the Legislature of that province or territory imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of any province or territory, as the case may be, is permitted to give to the Minister information or copies of any record or thing obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province or territory, as the case may be, in the administration or enforcement of that Act for the purposes of the administration or enforcement of this Act.

Exception for  
statistical  
information

(7) Notwithstanding anything in this Act, the Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

Offence

(8) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200.

Inter-  
provincial  
settlement  
of competing  
tax claims

**23.** For the purpose of simplifying compliance with this Act and the administration and collection of the tax imposed by this Act, and in order to provide for reciprocal arrangements to settle competing claims for tax on the acquisition and use of fuel by persons carrying on business in more than one province or territory of Canada, the Lieutenant Governor in Council may, upon the recommendation of the Minister and on such terms and conditions as are considered necessary and expedient, enter into an agreement with any province or territory of Canada that tax paid to one jurisdiction on the acquisition there of fuel that is transferred to the other jurisdiction and that becomes liable to tax in such other jurisdiction under this Act or any similar legislation in force in such other jurisdiction may be paid by one jurisdiction to the other in reduction of the liability to such tax arising in the jurisdiction receiving such payment and in lieu of refunding such tax to the person who paid it and who became liable for similar tax in such other jurisdiction.

Remedies for  
recovery of  
tax and  
penalties

**24.** The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to other

remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise.

**25.—(1)** Every collector shall,

Responsi-  
bilities of  
collector

- (a) ensure that any dye furnished by the Minister to colour fuel which is in the collector's possession is kept in a sealed container in a secure place and is used for no other purpose than the colouring of fuel in the manner prescribed; and
- (b) immediately report to the Minister any breakdown or malfunction of the equipment or any failure to follow any of the methods and procedures prescribed by the Minister to be followed and observed in the colouring of fuel or in the storage, transportation or delivery of coloured fuel,

and to ensure compliance with this subsection, any person thereunto authorized by the Minister may shut down and test all equipment used for the dyeing, storing, transportation or delivery of coloured fuel.

(2) Any person who owns or operates any equipment used to colour, store, transport or deliver coloured fuel that does not bear the identifying labels or seals prescribed by the Minister is guilty of an offence and upon conviction is liable to a fine of not more than \$20,000.

Offence

(3) All dye furnished by the Minister to a collector for the purpose of colouring fuel remains the property of Her Majesty the Queen in right of Ontario until it is mixed with fuel by the collector.

Dye is  
property  
of Crown

**26.** Any person who,

Offence

- (a) destroys or removes or attempts to destroy or remove, in any manner, the dye in any coloured fuel;
- (b) mixes or combines coloured fuel with any other type or grade of fuel;
- (c) removes, breaks or alters a seal or identifying label affixed to any tank, drum or machine in accordance with this Act or the regulations without the prior permission of the Minister; or
- (d) stocks coloured fuel on premises where clear fuel is sold to purchasers unless the coloured fuel is contained in a

separate tank or cistern and the pump delivering the fuel from that separate tank or cistern is clearly marked to indicate that coloured fuel is being delivered,

is guilty of an offence and is liable upon conviction to a fine of not less than \$200 and not more than \$5,000 for each offence.

Offence

**27.** Any person who,

R.S.O. 1980,  
c. 198

(a) delivers coloured fuel into the fuel tank of a motor vehicle licensed under the *Highway Traffic Act*;

(b) sells coloured fuel knowing that it will be used for a purpose that would render it taxable under this Act,

is guilty of an offence and upon conviction is liable to a fine equal to the tax payable with respect to the fuel so sold or delivered plus a fine of not less than \$100 and not more than \$2,000.

Offence

**28.** Any person who contravenes any provision of this Act or the regulations, for which contravention no penalty is otherwise provided, is guilty of an offence and is liable upon conviction to a fine of not less than \$50 and not more than \$1,000.

Transition

**29.**—(1) Where, on the day this Act comes into force, any person has in his possession clear fuel that is to be used by him for the purposes for which coloured fuel may be used under this Act or the regulations or in a manner that, in the opinion of the Minister, will not render the use of clear fuel liable to tax, any officer of the Ministry of Revenue may colour such fuel so held.

Idem  
R.S.O. 1980,  
c. 300

(2) Where a person who was a registrant under the *Motor Vehicle Fuel Tax Act* before this Act came into force has in his possession on the day this Act comes into force clear fuel with respect to tax on which he was, under the *Motor Vehicle Fuel Tax Act* required to account to the Minister, the provisions of the *Motor Vehicle Fuel Tax Act* continue to apply to his obligations to account for tax and provide returns to the Minister until the 1st day of December, 1982 and no longer.

Hand  
dyeing

(3) Where the owner or operator of facilities for the storage and sale of substantial quantities of fuel establishes to the satisfaction of the Minister that, on the coming into force of this Act, such owner or operator,

(a) will not be able to provide separate facilities for the storage of clear and coloured fuel;

(b) is in the business of selling both clear and coloured fuel; and

- (c) is making such efforts as the Minister considers reasonable to establish expeditiously separate facilities for the storage and sale of clear and coloured fuel,

the Minister may, for such length of time as he considers reasonable,

- (d) authorize such owner or operator to acquire clear fuel that will be used as coloured fuel;
- (e) designate such owner or operator a collector; and
- (f) authorize such owner or operator to colour, in such manner as the Minister directs, fuel delivered by such owner or operator into any tank (other than a fuel tank) belonging to another,

and the Minister may require the furnishing of adequate security from, impose such conditions on, and enter into such arrangements with, such owner or operator as the Minister considers necessary and desirable to ensure compliance with this Act, the payment and collection of tax and the proper colouring and disposition of fuel acquired by such owner or operator, and if such owner or operator fails to carry out such arrangement or conditions, or to provide security required from him, the authorizations and designation given and made under this subsection are thereupon revoked and of no further force or effect.

**30.**—(1) The Lieutenant Governor in Council may make <sup>Regulations by L.G. in C.</sup> regulations,

- (a) excluding products from this Act;
- (b) exempting any class of persons from the payment of the tax imposed under this Act;
- (c) exempting from a part or all of the tax imposed by this Act fuel that will be used by specified persons or in a specified manner or in a specified type of machinery or class of industry, and relieving collectors from their obligation of collecting a part or all of the tax on fuel so used;
- (d) providing for the furnishing to the Minister by persons of information relating to the sale or delivery by them of fuel that is exempt from the tax imposed by this Act;
- (e) prescribing rates of interest payable under this Act;



- (f) providing for the calculation and payment of interest on amounts paid in excess of the tax imposed by this Act, and prescribing the rate of such interest;
- (g) providing for the refund in special circumstances of the whole or any part of the tax imposed by this Act, and prescribing the terms and conditions under which such refund may be made;
- (h) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed by this Act;
- (i) prescribing a system of compensation to reimburse collectors for a part or all of their costs incurred in colouring fuel, designating classes of collectors and fixing the rate or rates of compensation to be paid to each class per litre of fuel coloured, and providing for a maximum amount of compensation to collectors and for the method by which such compensation may be deducted from the tax to be remitted in accordance with this Act;
- (j) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Regulations  
by Minister

(2) The Minister may make regulations,

- (a) prescribing any form that is required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (b) prescribing the taxable price per litre of fuel to be in effect from time to time and the period of time for which such price shall be in effect;
- (c) fixing to the nearest tenth of a cent the tax per litre of fuel to be paid under this Act as a result of the prescribing from time to time of a taxable price per litre in accordance with clause (b);
- (d) providing for the refund of any tax or any portion thereof paid under this Act to any purchaser or class of purchasers and prescribing the records and material to be furnished upon application for a refund;

- (e) prescribing purposes for which fuel is used that are excluded from the application of section 21;
- (f) prescribing additional information to be contained in any fuel acquisition permit or registration certificate issued under this Act, and attaching additional conditions to the use of any such permit or certificate;
- (g) prescribing records to be kept by persons, information to be shown and a return to be delivered by a person, and prescribing times or periods of time, in lieu of those mentioned in section 10, and which, or with respect to which, a return shall be delivered by any person or class of persons;
- (h) prescribing, for the purpose of subsection 2 (2) any manner of disposing of or consuming fuel;
- (i) prescribing the conditions and restrictions affecting registered consumers and interjurisdictional carriers and the method of paying the tax imposed by this Act to be followed by all registered consumers and interjurisdictional carriers;
- (j) requiring persons who refine, import and sell fuel, including fuel for the heating of homes and buildings, to become collectors under this Act for the purpose of colouring and selling fuel for tax exempt usage and selling clear fuel for taxable use, accounting for, collecting or facilitating the administration of the tax imposed by this Act;
- (k) prescribing the method of collecting and paying the tax imposed by this Act to be followed by any collector, importer, registered consumer or interjurisdictional carrier;
- (l) prescribing who may colour fuel, the location of dye-points where a collector may colour fuel and the process a collector shall use to colour and dispense coloured fuel;
- (m) prescribing standards and requirements for equipment to be used in colouring fuel;
- (n) prescribing the type and amount of dye in proportion to fuel to be used to colour fuel and the conditions under which fuel may be coloured using a manual process;

- (o) prescribing the responsibilities of collectors for the receipt, safe custody, use and accounting for dye and to allow seals as provided by the Minister, to be affixed as deemed appropriate by a person authorized by the Minister for this purpose, to dye injector equipment;
- (p) prescribing conditions under which an importer shall colour fuel;
- (q) prescribing anything permitted or required by the Act to be prescribed.

**Retroactivity**

(3) A regulation is, if it so provides, effective with reference to a period before it was filed and not earlier than the day this Act comes into force.

**Grants for  
fuel storage  
tanks**

**31.—(1)** The Lieutenant Governor in Council may make regulations establishing a program to extend to small businesses or enterprises that are independent of major distributors and refiners of fuel and to farmer's co-operatives relief from the cost of construction or acquisition of tanks for the storage or transportation of fuel and other facilities required, as a result of the colouring of fuel under this Act and the regulations, to maintain business at the level of the 19th day of May, 1981, and, without limiting the generality of the foregoing, may prescribe,

- (a) the classes of persons, businesses or undertakings who may apply to receive relief under the program and to whom relief under this section may be provided;
- (b) the structures, facilities and expenditures with respect to which relief may be provided;
- (c) the form and method of application for relief under this section and the information and documentation required to be filed by the applicant in support of the application;
- (d) the requirements, terms and conditions for eligibility under the program and provision for any bond, lien, deposit, undertaking or other security that those requirements, terms and conditions will be met,

but nothing in this section authorizes the Lieutenant Governor in Council to provide relief under the program in excess of \$65,000 for any single installation, acquisition or required modification or to provide relief where an application for relief is made after the 31st day of March, 1985.

(2) The applicant for relief under subsection (1) must obtain approval of the Minister prior to the commitment of any funds for the construction of the structure or facility with respect to which a grant is claimed. Time of application

(3) Until the Legislature appropriates funds to meet payments that may be made under this section, such payments may be made from the Consolidated Revenue Fund. Payments from the Consolidated Revenue Fund

(4) A regulation under this section may be effective from a time prior to the coming into force of this Act, but not earlier than the day this Act receives Royal Assent. Retro-activity

**32.** The *Motor Vehicle Fuel Tax Act*, being chapter 300 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 12, is repealed. Repeal

**33.** This Act comes into force on the 1st day of September, 1982. Commencement

**34.** The short title of this Act is the *Fuel Tax Act, 1981*. Short title

